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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,983	10/12/2005	Ignatius Loy Britto	PB60225USw	2114
23347	7590	08/07/2009	EXAMINER	
GLAXOSMITHKLINE CORPORATE INTELLECTUAL PROPERTY, MAI B482 FIVE MOORE DR., PO BOX 13398 RESEARCH TRIANGLE PARK, NC 27709-3398			BLIZZARD, CHRISTOPHER JAMES	
			ART UNIT	PAPER NUMBER
			3771	
			NOTIFICATION DATE	DELIVERY MODE
			08/07/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/552,983	<b>Applicant(s)</b> BRITTO ET AL.	
	<b>Examiner</b> CHRISTOPHER BLIZZARD	<b>Art Unit</b> 3771	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 3,4 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-24 and 26-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/12/05</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of species II in the reply filed on 6/29/09 is acknowledged.
2. Claims 4, 5, and 25 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species 1, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/29/09.

### ***Drawings***

3. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 5-24 and 26-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warby (2002/0144678).

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6. Regarding claims 1 and 30, Warby discloses a medicament dispenser with a component having a surface which contacts a medicinal formulation contained in the dispenser, wherein all the surfaces of the component are coated in a fluorinated polymeric composition (page 1, para [0009], lines 8-9), but does not disclose the fluorinated polymeric composition being heptafluoropropane, HFC-227. It would have been obvious to one having ordinary skill in the art at the time the invention was made to choose heptafluoropropane as the fluorinated polymeric composition, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

7. Regarding claim 2, Warby discloses the component is of a medicinal aerosol dispenser (page 1, para [0002], line 1).

8. Regarding claims 5-9, 23, 24, 26, and 28, Warby discloses the device wherein the component is a metering chamber (113) of a metering valve of an metered dose aerosol dispenser (pages 1, 2; para [0018], lines 1-6).

9. Regarding claims 10-12, Warby discloses the component is an outlet member (111) with an external surface and internal passageway (fig. 2).

10. Regarding claims 13-15, Warby discloses the component wherein the fluorinated polymeric composition could be of a single monomer or multiple monomers (page 1, para[0009], Lines 2-6).

11. Regarding claim 16, Warby discloses the component wherein non-fluorated polymers are used as coating (page 2, para[0027], lines 10-12).

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12. Regarding claim 17, Warby discloses the component wherein the fluorinated polymeric composition could be made of multiple monomers but does not disclose the other monomer selected from a group consisting,  $\text{CH}_4$ ,  $\text{C}_2\text{H}_6$ ,  $\text{C}_2\text{H}_4$ ,  $\text{N}_2$ ,  $\text{O}_2$ ,  $\text{H}_2$ ,  $\text{C}_3\text{COO}(\text{C}_6\text{H}_6)\text{COOCH}_3$ ,  $\text{HO}(\text{CH}_2)_2\text{OH}$ ,  $\text{C}_3\text{H}_3\text{N}$ , and  $\text{C}_4\text{H}_6$ . It would have been obvious to one having ordinary skill in the art at the time the invention was made to choose the other monomer from a group consisting,  $\text{CH}_4$ ,  $\text{C}_2\text{H}_6$ ,  $\text{C}_2\text{H}_4$ ,  $\text{N}_2$ ,  $\text{O}_2$ ,  $\text{H}_2$ ,  $\text{C}_3\text{COO}(\text{C}_6\text{H}_6)\text{COOCH}_3$ ,  $\text{HO}(\text{CH}_2)_2\text{OH}$ ,  $\text{C}_3\text{H}_3\text{N}$ , and  $\text{C}_4\text{H}_6$ , since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

13. Regarding claims 18-22, 31 and 32, Warby discloses the polymeric composition being a coating deposited on the plastic component surface through cold plasma polymerization with a thickness of about 1nm to about 200nm (page 2, para[0028], lines 1-17).

14. Regarding claim 27, Warby discloses the device containing a propellant to deliver the medicament (page 1, para[0005], line 4), but does not disclose the propellant being HFA-227. It would have been obvious to one having ordinary skill in the art at the time the invention was made to choose the commonly used MDI propellant HFA-227, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

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15. Regarding claim 29, Warby discloses the device wherein a valve assembly has the component to be coated (pages 1, 2; para [0018], lines 1-6).

***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Barnes (6,626,170) a drug delivery device with polymer coated parts, Jink (2003/0031806) a medicinal inhalation device with fluorocarbon coating, and Osdal (2,562,188) a fluorocarbon coating method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER BLIZZARD whose telephone number is (571)270-7138. The examiner can normally be reached on Monday thru Friday, 9:00AM -5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571)2724835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHRISTOPHER BLIZZARD/  
Examiner, Art Unit 3771

/Justine R Yu/  
Supervisory Patent Examiner, Art Unit 3771